

CITY OF BRIGHTON, COLORADO
REGULAR SESSION
JULY 15, 2014
7:00 P.M.

***THERE IS A 5-MINUTE
LIMIT TO ADDRESS
COUNCIL.**

**MAYOR
MAYOR PRO-TEM

COUNCIL MEMBERS**

- **RICHARD N MCLEAN**
- **KIRBY WALLIN**
- **LYNN BACA**
- **REX BELL**
- **JW EDWARDS**
- **MARK HUMBERT**
- **JOAN KNISS**
- **KEN KREUTZER**
- **CYNTHIA A MARTINEZ**

1. CALL TO ORDER

- A. Pledge of Allegiance to the American Flag.
- B. Roll Call.

2. CONSENT AGENDA

- A. Approval of the May 27, 2014 City Council Minutes.

3. APPROVAL OF REGULAR AGENDA (Council may take a short break between 8:30–9:00 p.m.)

4. CEREMONIES

- A. Hannah Reynolds 100 Years Old Proclamation
- B. Brake for Bela Proclamation
- C. Help for Homes Captain Recognition
- D. Sister Cities Presentation

5. PUBLIC INVITED TO BE HEARD ON MATTERS NOT ON THE AGENDA (Speakers limited to five minutes)

6. PUBLIC HEARINGS

7. ORDINANCES FOR INITIAL CONSIDERATION

8. CONSOLIDATED ITEMS FOR SEQUENTIAL REVIEW

- A. Market Rate Salary Adjustments.

- 1. A Resolution Amending Certain Accounts in the Cemetery, Water, Wastewater, Storm Drainage and Brighton Urban Renewal Authority Funds and Appropriating Money for Expenditure.
- 2. An Ordinance of the City Council of the City of Brighton, Colorado, Establishing Certain Market Rate Salary Adjustments for Regular Full Time and Regular Part Time Employees of the City of Brighton Personnel for a Portion of Budget Year 2014; Instructing the City Manager to Implement such Adjustments Effective August 3, 2014; and Setting Forth Other Details Related Thereto. (Final Reading)

9. RESOLUTIONS

- A. A Resolution of the City Council of the City of Brighton, Colorado, Authorizing the Signing of a Grant Agreement with Great Outdoors Colorado (“GOCO”), in the Amount not to exceed Nine Hundred Fifty Thousand Dollars (\$950,000.00), for the CFRT (Colorado Front Range Trail) from E-470 to Brighton; and Authorizing the City Manager to Sign and Execute the Grant Agreement.
- B. A Resolution of the City Council of the City of Brighton, Colorado Approving an Agreement with Gene Goff for the Donation of a Sculpture, “YUCCA Sculpture” to be Installed in the Eagle View Park; and Authorizing the City Manager to Execute said Agreement on Behalf of the City and to Undertake such Actions and Execute such Documents as May be Necessary to Carry Out the Terms of said Agreement.
- C. A Resolution of the City Council of the City of Brighton, Colorado, Authorizing the Submittal of a Grant Application to Adams County Open Space in the Amount not to exceed Three Thousand Six Hundred Dollars (\$3,600.00), for the Pheasant Ridge Park – High School Seniors Beautification Project; and Authorizing the City Manager to Sign the Grant Application.
- D. A Resolution of the City Council of the City of Brighton, Colorado, Authorizing the Submittal of a Grant Application to Adams County Open Space in the Amount of One Hundred Eighty Thousand Dollars (\$180,000.00), for the Northgate Park Design and Construction Project; and Authorizing the City Manager to Execute the Grant Application.
- E. A Resolution Approving that Certain Amendment to the Cooperative Agreement Between the City of Brighton and the Sand Creek Regional Greenway Partnership Inc. for the Northeast Greenway Corridor Restoration Plan Project; Approving the City’s Contribution of Two Thousand Dollars (\$2,000) as Its Share of the Costs for such Project; and Authorizing the Mayor to Execute the Agreement on Behalf of the City.
- F. A Resolution of the City Council of the City of Brighton, Colorado, Authorizing the Purchase of Seven and 00/100 (7.00) Fulton Ditch Shares from C&J Sutton LLC, (Sellers) for the Total not to exceed Sum of One Hundred Five Thousand Dollars (\$105,000.00).

10. UTILITIES BUSINESS ITEMS

Ordinances

Resolutions

11. GENERAL BUSINESS

12. REPORTS

- A. By the Mayor
- B. By Department Heads
- C. By the City Attorney
- D. By the City Manager

13. REPORTS BY COUNCIL ON BOARDS & COMMISSIONS

14. EXECUTIVE SESSION

15. ADJOURNMENT

**City Council
Agenda Item
2A**

**MINUTES OF THE SPECIAL MEETING OF THE CITY COUNCIL FOR
THE CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF
COLORADO, HELD ON MAY 27, 2014.**

1. CALL TO ORDER

Mayor McLean called the meeting to order at 7:08 p.m.

A. Pledge of Allegiance to the American Flag.

Councilmember Humbert led the recitation of the Pledge of Allegiance to the American Flag.

B. Roll Call.

Council present: Mayor McLean, Mayor Pro Tem Wallin, Councilmembers Baca, Bell, Edwards, Humbert, Kniss, Kreutzer and Martinez.

2. CONSENT AGENDA

A. Approval of the April 1, 2014 City Council Minutes.

City Clerk Natalie Hoel read the Consent Agenda into the record.

Motion by Councilmember Martinez to approve the Consent Agenda as presented, **second by Councilmember Kniss.**

Voting aye: All present.

3. APPROVAL OF REGULAR AGENDA (Council will take a short break between 8:30–9:00 p.m.)

Motion by Councilmember Humbert to approve the Regular Agenda as presented, **second by Councilmember Kreutzer.**

Voting aye: All present.

4. RESOLUTIONS

A. A Resolution of the City Council of the City of Brighton, Colorado Approving an Intergovernmental Agreement Between the City of Commerce City, Colorado and the City of Brighton for the Creation of a Joint Victim Services Unit.

Mayor McLean read the title of the Resolution into the record.

City Manager Esquibel introduced Chief of Police and Acting Utilities Director Clint Blackhurst.

Chief of Police and Acting Utilities Director Clint Blackhurst explained that the City of Commerce City Police Department and the City of Brighton Police Department have joined together in the past for ventures that benefit both jurisdictions. The School Resource Office program at Prairie View High School is one of these programs. Both entities would like to now look at combining their Victim Services Unit. The Intergovernmental Agreement (IGA) will simply join the two (2) units. Commerce City currently has two (2) Victim Services Coordinators and they will be combined with the City of Brighton's unit. City of Brighton Victim Services Coordinator Kim Messina will be the

Coordinator for the combined unit. The biggest obstacle is that Commerce City has two (2) full-time employees. Going forward, all of the employees in this unit will be under the City of Brighton payroll system and policies and procedures as Brighton will be the host agency for this program. It would be difficult for the coordinator to be in charge of employees under different entities. The Commerce City employees will remain under Commerce City until December, 2015 or such time as either Commerce City employee leaves their position. The costs will be divided between the two (2) agencies by the number of employees for each City. Although it is anticipated that there will be an increased cost for Brighton, this will be offset by the fact that there will be trained full-time advocates responding to the majority of the difficult situations the advocates are called to handle. The dedicated volunteers will continue to be used as needed in the unit. Staff is applying for additional grant funding sources through the State and Adams County. This program is a new concept with the majority of calls being responded to by full-time staff members. Chief of Police and Acting Utilities Director Clint Blackhurst answered questions from Council regarding:

- The length of the IGA.
- The total number of employees in the Victim Services Unit.
- The anticipated additional cost to the City of Brighton.
- This concept being used in other jurisdictions.

Motion by Mayor Pro Tem Wallin to approve Resolution 2014-45 the title of which as read by Mayor McLean, **second by Councilmember Baca.**

Voting aye: All present.

B. A Resolution of the City Council of the City of Brighton, Colorado, Approving Change Order No. 1 to the Contract Previously Awarded to H.W. Houston Construction for the Renovation of the Restrooms at City Hall Building to meet ADA Requirements through a Community Development Block Grant (CDBG), Bid #14-016, in an amount not to exceed Seventy Eight Thousand Dollars (\$78,000.00), and Authorizing the City Manager to sign the Change Order No. 1 on Behalf of the City.

Mayor McLean read the title of the Resolution into the record.

City Manager Esquibel introduced IT Director Margaret Brocklander and Facilities Project Manager Bob Brady.

IT Director Margaret Brocklander explained that on May 6, 2014 a project was presented to City Council regarding the City Hall restroom renovation which was awarded to H.W. Houston in the amount of \$324,200.00. The total amount of funding for the project from the Community Development Block Grant (CDBG) is \$500,000.00. There are other portions of this project not awarded to H.W. Houston including electrical, HVAC and design. After the bids were received staff discussed the scope of work and materials to be used. One material which was chosen for its cost effectiveness was RFP wet board for wet walls and is made of a pebble material that is hard to clean. Since the total [bid] amount was under the CDBG amount of \$500,000.00 staff would like to change the material used to a smoother surface which is easier to clean and to change the drywall to a green board drywall. The change order is in the amount of \$78,000.00 which amends the project cost, bringing it to \$402,200.00 plus the other costs for electrical, HVAC and design. This total is well under the CDBG awarded amount of \$500,000.00. **City Manager Esquibel, Director Brocklander and Facilities Project Manager Brady** answered questions from Council regarding:

- What will happen with the unused portion of the CDBG grant.
- The reason the green board drywall was not included in the original project bid.

Motion by Councilmember Bell to approve Resolution 2014-46 the title of which as read by Mayor McLean, **second by Councilmember Edwards.**

Voting aye: All present.

5. ADJOURNMENT

Motion by Councilmember Martinez, second by Councilmember Humbert to adjourn at 7:29 p.m.

Voting aye: All present.

CITY OF BRIGHTON, COLORADO

**By: _____
Richard N. McLean, Mayor**

ATTEST:

Natalie Hoel, City Clerk

Approval Date

**City Council
Agenda Item
4A**



PROCLAMATION

"Hannah Reynolds Day"

WHEREAS, the City of Brighton would like to recognize Hannah Reynolds in honor of her 100th birthday, July 13, 2014; and

WHEREAS, Hannah was born and raised in Wolbach, Nebraska graduating from Brayton High School; and

WHEREAS, her first job was working the grill at Wolbach & Sons Store; and

WHEREAS, Hannah met her husband Joe and was married in 1939 and has two daughters Joann and Judy; and

WHEREAS, Hannah moved several times but lived in Greeley, CO; Goodland and Colby, KS and then finally back to Colorado and currently lives in Brighton with her daughter, Judy; and

WHEREAS, Hannah worked in retail stores and even at the Woolworth's that was in Brighton on Main Street as well as Acme Paints and she retired from Neodata located in Boulder; and

WHEREAS, Hannah organized a public meeting for families that needed special education programs for their children in Brighton and got the school district to start programs here; and

WHEREAS, less than 1% of all Americans reach the century mark in age; and

WHEREAS, Hannah is celebrating her 100th birthday and enjoying life.

NOW, THEREFORE, I, Richard N. McLean, Mayor of the City of Brighton, do hereby declare Tuesday, July 15, 2014 as

"HANNAH REYNOLDS DAY"

In the City of Brighton, with the honors and privileges set forth for such a day.

DATED this 15th day of July, 2014.

CITY OF BRIGHTON

Richard N. McLean, Mayor

Kirby Wallin, Mayor Pro Tem

Lynn Baca

Rex Bell

J.W. Edwards

Mark Humbert

Joan Kniss

Ken Kreutzer

Cynthia Martinez

ATTEST:

Natalie Hoel, City Clerk

**City Council
Agenda Item
4B**



Proclamation

"BRAKE FOR BELA" SUMMER SAFETY CAMPAIGN 2014

WHEREAS, coinciding with the end of the school year, the summer months of June through August represent increased activity among children in neighborhoods and surrounding streets; and

WHEREAS, auto-pedestrian accidents reached a dangerous level in 2013, and every day, at least one person is injured by a hit-and-run driver; and

WHEREAS, motor vehicle crashes are a leading cause of death for children 2-14 years old; and

WHEREAS, pedestrian fatalities involving children under the age of 14 are greatest during the summer months, with more than 80 percent of accidents occurring at non-intersection locations; and

WHEREAS, children move in unpredictable ways and are the most difficult pedestrians to see, making distracted driving, something that causes more than nine deaths and 1,000 injuries every day, especially dangerous; and

WHEREAS, it is our duty as concerned citizens and parents to ensure we are creating a safe environment for our children, as well as educating all Coloradans to practice safe driving and pedestrian behavior.

NOW, THEREFORE, I, Richard N. McLean, Mayor of the City of Brighton, on behalf of the City Council, hereby recognize and support the **"Brake for Bela" Summer Safety Campaign** beginning June 1, 2014 through August 31, 2014 and encourage all citizens to practice safe driving techniques and be mindful and aware of pedestrians this summer.

DATED this 15th day of July, 2014.

CITY OF BRIGHTON

Richard N. McLean, Mayor

Kirby Wallin, Mayor Pro-Tem

Lynn Baca

Rex Bell

J.W. Edwards

Mark Humbert

Joan Kniss

Ken Kreutzer

Cynthia A. Martinez

ATTEST:

Natalie Hoel, City Clerk

**City Council
Agenda Item
8A**

HUMAN RESOURCES OFFICE

Reference: **2014 Market Rate Adjustment**

To: Mayor Richard N. McLean and Members of City Council
Through: Manuel Esquibel, City Manager



Prepared By: Karen Borkowski Surine, Human Resources Director

Date Prepared: May 30, 2014

PURPOSE

To approve an Ordinance establishing Market Rate Adjustments for City of Brighton regular and part-time benefitted employees effective with the pay period beginning August 3, 2014.

BACKGROUND

In 2003, the City Council approved the goal of getting City Staff salaries to 100% of median market. With many years of an economic downturn, City staff has been working to catch staff back up to 100% of median market as funds become available. In the last two years employees were eligible for merit increases based on performance. In 2012 employees received a \$750 Special Recognition Contribution not added to base in recognition of their loyalty and dedication to customer service. In 2013 employees received a market rate adjustment based on a three tiered approach ranging from 2% to 5%.

City staff updated job descriptions and collected current market data. A team consisting of Clint Blackhurst, Karen Borkowski, Rich Kelly, Laura Morris, Dan Frelund, Joe Smith, and Gary Wardle reviewed market data and job descriptions from certain metro area municipalities, to include Adams County, Arvada, Aurora, City and County of Broomfield, Commerce City, Northglenn, Thornton and Westminster. Staff met with all Department Directors for input and discussion of the data as well as reviews of each position under their purview to determine internal parity based on job duties, supervision exercised, education, experience, and scope of duties. Based upon the current salary survey, City of Brighton employees are on average 8% below market. Staff recommends a 2% across the board market adjustment to base to maintain the progress achieved in 2013 for all regular full-time benefitted and regular part-time benefitted employees.

Based upon the data provided, the City Manager is recommending a market adjustment (effective with the pay period beginning August 3, 2014 of the City's salary pay plan as follows:

- 1) All regular benefitted full-time and regular benefitted part-time positions will receive a 2% market adjustment.
- 2) The Salary Range Placement Table for all regular positions will move 2%.

Per Council direction, at the end of 2014, City staff will update market data and job descriptions and make further recommendations for market adjustment as needed. In 2015, staff will again review and analyze market data per the established process.

FINANCIAL IMPLICATIONS

In order to implement the recommendation, City Council must approve a supplemental budget appropriation at final reading. Please note this dollar figure includes the changes a market adjustment brings to the benefits portion (Medicare and retirement) and is possible to implement now. The total increase for market adjustments with retirement and Medicare is \$128,702.51. Outlined below is the cost breakdown of the proposed August 3, 2014 Market Rate Adjustment allocated by fund.

11 Payperiods	Proposed Salaries	Total Increase with Retirement/Medicare
Utilities (Sewer, Water, Stormwater)	\$ 11,984.34	\$ 13,236.70
Cemetery	\$ 1,690.79	\$ 1,867.48
BURA	\$ 1,568.23	\$ 1,732.11
General Fund	\$ 101,282.23	\$ 111,866.22
Total	\$ 116,525.58	\$ 128,702.51
Per Pay Period		
\$ 10,595.16		

**CITY OF BRIGHTON, COLORADO
2014 BUDGET AMENDMENTS**

A RESOLUTION AMENDING CERTAIN ACCOUNTS IN THE CEMETERY, WATER, WASTEWATER, STORM DRAINAGE AND BRIGHTON URBAN RENEWAL AUTHORITY FUNDS AND APPROPRIATING MONEY FOR EXPENDITURE.

Resolution Number _____

WHEREAS, authority is granted by sections 29-1-109 and 29-1-111 of the Colorado Revised Statutes and Section 10.12 of the City of Brighton, Colorado Charter to amend the adopted budget for the current fiscal year; and

WHEREAS, those adjustments to the 2014 Budget which are necessary for the 2014 City operations could not have been reasonably foreseen at the time of the adoption of the 2014 Budget; and

WHEREAS, the City Council has been advised by the City Manager that the revision to the 2014 Budget as contained within this resolution can adequately be implemented as set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brighton, Colorado that:

The **Cemetery Fund** be amended in the following accounts:

Revenues:

- Transfer from Fund Balance \$ 1,867

Expenditures:

- Market adjustment pay \$ 1,867

The **Water Utility Fund** be amended in the following accounts:

Revenues:

- Transfer from Fund Balance \$ 6,610

Expenditures:

- Market adjustment pay \$ 6,610

The **WasteWater Utility Fund** be amended in the following accounts:

Revenues:

- Transfer from Fund Balance \$ 5,817

Expenditures:

- Market adjustment pay \$ 5,817

The **Storm Utility Fund** be amended in the following accounts:

Revenues:

- Transfer from Fund Balance \$ 810

Expenditures:

- Market adjustment pay \$ 810

The **Brighton Urban Renewal Authority Fund** be amended in the following accounts:

Revenues:

- Transfer from Fund Balance \$ 1,732

Expenditures:

- Market adjustment pay \$ 1,732

ADOPTED this 15th day of July, 2014.

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, City Attorney

BRIGHTON CITY COUNCIL ORDINANCE

ORDINANCE NO. _____

INTRODUCED BY: Martinez

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ESTABLISHING CERTAIN MARKET RATE SALARY ADJUSTMENTS FOR REGULAR FULL TIME AND REGULAR PART TIME EMPLOYEES OF THE CITY OF BRIGHTON PERSONNEL FOR A PORTION OF BUDGET YEAR 2014; INSTRUCTING THE CITY MANAGER TO IMPLEMENT SUCH ADJUSTMENTS EFFECTIVE AUGUST 3, 2014; AND SETTING FORTH OTHER DETAILS RELATED THERETO.

WHEREAS, fair and equitable personnel management tools and practices are essential for the administration of City government; and

WHEREAS, the City maintains and administers formal personnel policies and has assigned staff to implement and carry out the City's personnel administration; and

WHEREAS, in July of 2004 the City Council enacted Resolution No. 04-74 to establish certain Metro Adams County municipalities as the base for market rate comparisons for the City and to authorize the use of 100% of median market rate comparison for the restructuring of the salary plan for City employees; and

WHEREAS, over the past year, the Salary Survey Committee has studied and analyzed the existing pay plan, pay ranges, job classifications, and, based upon the information collected and the analyses conducted, has determined that a Market Rate Adjustment is necessary to move employees closer to 100% of the median market rate, and that the Salary Range Placement Table should be updated accordingly; and

WHEREAS, based on the gradual improvements in the City's economic conditions and recognizing the importance and value that the City's employees are to the City, the City Council finds and determines that a Market Rate Adjustment and updating the Salary Range Placement Table are justified and warranted under the information presented.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, THAT:

Section 1. In order to take a positive step toward achieving 100% of the median market rate for City employees, a Market Rate Adjustment to salary is warranted.

Section 2. All regular full-time and regular part-time employees will receive a 2% market adjustment to be added to the base salary.

Section 3. The salary range for all regular full-time and regular part-time employees will move 2%.

Section 4. The City Manager is directed to make such adjustments, effective with the payroll period beginning August 3, 2014.

**INTRODUCED, PASSED ON FIRST READING AND ORDERED PUBLISHED
THIS 1st DAY OF JULY, 2014.**

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, Esq.
City Attorney

**Published in the *Standard Blade*
First Publication: July 9, 2014**

**PASSED ON SECOND AND FINAL READING AND ORDERED PUBLISHED
THIS 15th DAY OF JULY, 2014.**

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

**Published in the *Standard Blade*
Final Publication: July 23, 2014**

**City Council
Agenda Item
9A**

Department of Parks and Recreation

Reference: *Resolution Authorizing the Signing of a Grant Agreement with Great Outdoors Colorado (GOCO) for Grant Funding in the Amount Not to Exceed \$950,000.00 for the CFRT (Colorado Front Range Trail) from E-470 to Brighton and to authorize the City Manager to Sign and Execute the Grant Agreement.*

To: Mayor Richard N. McLean and Members of City Council
Through: Manuel Esquibel, City Manager

☐ Attorney Reviewed: _____ ☐ Regular Council Agenda Date: _____
☐ Finance Reviewed: _____ ☐ Resolution / Ordinance # _____
☐ Publication Dates: _____

Prepared By: Gary Wardle, Director of Parks and Recreation; and
Mark Heidt, Assistant Director of Parks and Recreation

Date Prepared: July 8, 2014

PURPOSE

A Resolution authorizing the City of Brighton to enter into a Grant Agreement with Great Outdoors Colorado (“GOCO”), for grant funding in the amount not to exceed \$950,000.00 for the “CFRT (Colorado Front Range Trail) from E-470 to Brighton”, and authorizing the City Manager to sign and execute the Grant Agreement.

BACKGROUND

The Parks and Recreation Department submitted the “CFRT from E-470 to Brighton” grant application to GOCO. The Brighton City Council approved of the grant application submittal on February 18, 2014. The City of Brighton submitted the GOCO Grant Application for the GOCO Paths to Parks Project in early March 2014.

The Parks and Recreation Department Staff received notification on June 23, 2014 of grant funding from GOCO for the CFRT from E-470 to Brighton trail project. The CFRT trail project site is located adjacent to the South Platte River from E-470 on the south to the Ken Mitchell Park fishing pier on the north.

The total cost for constructing the CFRT from E-470 to Brighton trail project is estimated to be \$2,427,410.00. The GOCO Grant Agreement is necessary to proceed with the Paths to Parks Project and to receive the \$950,000.00 from GOCO. The GOCO grant funding of \$950,000.00 is 39.14% of the total project. The City in 2015 will apply for an Adams County Open Space grant for \$910,000.00 (37.49% of the total project). The City of Brighton will provide \$567,410.00 (23.37% of the total project) in a cash match. The City cash match funding will come from the 2015 and 2016 Recreation Capital Project fund. The project will be constructed in 2016.

The City Attorney has reviewed as to form the Grant Agreement and confirms that it is GOCO’s standard agreement and that the terms are reasonable. The attached Resolution allows

the City of Brighton, through the City Council, to enter into the Agreement with GOCO and to allow the City Manager to sign and execute the Grant Agreement. GOCO requires that this Grant Agreement be signed by the City by July 31, 2014.

FINANCIAL IMPACT

Signing the GOCO Grant Agreement will allow for the City of Brighton to receive an amount not to exceed \$950,000.00 in grant funding for the “CFRT (Colorado Front Range Trail) from E-470 to Brighton” estimated to cost \$2,427,410.00.

OPTIONS FOR COUNCIL CONSIDERATION

- Approve the Resolution, or
- Deny the Resolution.

STAFF RECOMMENDATION

It is recommended that City Council approve the Resolution authorizing the City of Brighton to enter into a Grant Agreement with Great Outdoors Colorado (“GOCO”), for grant funding in the amount of \$950,000.00 for the “CFRT (Colorado Front Range Trail) from E-470 to Brighton”, and authorizing the City Manager to sign and execute the Grant Agreement.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AUTHORIZING THE SIGNING OF A GRANT AGREEMENT WITH GREAT OUTDOORS COLORADO (“GOCO”), IN THE AMOUNT NOT TO EXCEED NINE HUNDRED FIFTY THOUSAND DOLLARS (\$950,000.00), FOR THE CFRT (COLORADO FRONT RANGE TRAIL) FROM E-470 TO BRIGHTON; AND AUTHORIZING THE CITY MANAGER TO SIGN AND EXECUTE THE GRANT AGREEMENT.

WHEREAS, the City Council of the City of Brighton determines that it was appropriate for the City to apply for a Great Outdoors Colorado (“GOCO”) Grant, for the trail construction project entitled, “CFRT (Colorado Front Range Trail) from E-470 to Brighton” (the “Project”) for \$950,000.00; and

WHEREAS, the City of Brighton supports the completion of said Project; and

WHEREAS, the City of Brighton has received a grant for \$950,000.00 from GOCO to fund the Project, subject to the execution of a Grant Agreement; and

WHEREAS, the City of Brighton City Council believes that it is reasonable and proper for the City to enter into a written agreement with GOCO for the budgeting, allocation and contribution of funds to the Project in the amounts contemplated herein; and

WHEREAS, the City Council finds and determines that said Grant Agreement is necessary and proper in order to proceed with the Project, and that it is in the best interests of the City to approve entering into such an Agreement for the GOCO grant funding; and

WHEREAS, the City Council authorizes the City Manager to sign and execute the Grant Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, AS FOLLOWS:

1. The City Council of the City of Brighton hereby approves the Grant Agreement with Great Outdoors Colorado (GOCO) for an amount not to exceed \$950,000.00 in grant funding for the entitled, “CFRT (Colorado Front Range Trail) from E-470 to Brighton”, and authorizes the City Manager to sign and execute the Agreement on behalf of the City.
2. The City Council hereby authorizes the expenditure of budgeted funds as necessary to meet the terms and obligations of the Grant Agreement and Application.
3. This Resolution to be in full force and effect from and after its passage and approval.

RESOLVED, this 15th day of July 2014.

CITY OF BRIGHTON, COLORADO

ATTEST:

By: _____
Richard N. McLean, Mayor

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, Esq.
City Attorney

**City Council
Agenda Item
9B**

Department of Parks and Recreation

Reference: A Resolution approving an agreement with Gene Goff to donate a Sculpture to the Eagle View Adult Center

To: Mayor Richard N. McLean and Members of City Council
Through: Manuel Esquibel, City Manager

☐ Attorney Reviewed: _____ ☐ Regular Council Agenda Date: _____
☐ Finance Reviewed: _____ ☐ Resolution / Ordinance # _____
☐ Publication Dates: _____

Prepared By: Gary Wardle, Director of Parks and Recreation

Date Prepared: July 24, 2014

PURPOSE: Approving an agreement with Gene Goff to Donate a Sculpture to be Placed at Eagle View Adult Center

BACKGROUND: Eagle View Park was completed in 2013. The EVAC users and staff are thrilled with the design and are excited about our first full year of watching the various plants grow. As part of the design and construction, the Senior Advisory Board funded the fountain, a wonderful enhancement to the design.

A local artist, Gene Goff, approached the Senior Advisory Board about his vision of a public art creation for Eagle View Park. Gene is a local artist, working with steel. He had an idea for a new design, a yucca plant. Gene's parents, particularly his mother, are active participants at Eagle View. He wanted to create a yucca plant from steel and donate it to Eagle View, in honor of his parents. This would be the first yucca design that he has made. His concept and initial design details are: the base would be 48"; the leaves of the plant are 24"; the stem will be 7' tall; all would be painted using automotive paint.

The artwork will be mounted into the ground. The park staff will be asked for assistance with the installation. Wind is a consideration at Eagle View and Gene is aware of that concern. The maintenance of the piece would be minimal, due to the paint and clear coat, it should maintain its colors for 6-10 years. It is estimated that the sculpture will be ready for installation late summer.

There are two pages of photos attached with this memo. One is a picture of a yucca that Gene is using for his inspiration and design. The other shows various photos of Eagle View Park. The exact location for the sculpture will be determined upon completion of the piece.

The Senior Advisory Board is supportive of the piece and has voted to accept the donation. They have agreed that any costs associated with the installation or the lighting of the sculpture, and the general maintenance will be paid by Senior Advisory Board funds. In keeping with the established policy for accepting public art donations, the Parks and Recreation Board approved the donation and artwork at their meeting on 6/4/14. The Brighton Cultural Arts Commission approved the donation and artwork at their meeting on 6/5/14. We are asking City Council for their approval. Once procedures have been followed and approved, we will work on the actual placement of the artwork.

FINANCIAL IMPACT: This is a donation to Eagle View. The Senior Advisory Board has assumed any additional financial costs.

OPTIONS FOR COUNCIL CONSIDERATION

- 1) **Approve the Resolution**
- 2) **Not approve the Resolution**

STAFF RECOMMENDATION: Staff recommendations accepting the donated public art piece from Gene Goff for placement at the Eagle View Park and approving the Agreement

**BRIGHTON CITY COUNCIL RESOLUTION
APPROVING AN AGREEMENT WITH GENE GOFF
REGARDING THE DONATION OF A SCULPTURE “YUCCA
SCULPTURE” TO BE INSTALLED IN THE
EAGLE VIEW PARK**

Resolution No. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO APPROVING AN AGREEMENT WITH GENE GOFF FOR THE DONATION OF A SCULPTURE, “YUCCA SCULPTURE” TO BE INSTALLED IN THE EAGLE VIEW PARK; AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY AND TO UNDERTAKE SUCH ACTIONS AND EXECUTE SUCH DOCUMENTS AS MAY BE NECESSARY TO CARRY OUT THE TERMS OF SAID AGREEMENT;

WHEREAS, Gene Goff has completed a design for a Yucca Sculpture that he will donate for placement in the Eagle View Park, and

WHEREAS, the Brighton United Senior Citizen Center, Inc, (Senior Center Advisory Board) has approved the design for the Sculpture and recommends the Sculpture donation be approved, and

WHEREAS, the Brighton United Senior Citizen Center, Inc. will approve the exact location in Eagle View Park and assist in funding the placement of the sculpture, and

WHEREAS, the Park and Recreation Advisory Board has reviewed the design and location for the Sculpture and recommends the Sculpture donation be approved, and

WHEREAS, the Brighton Cultural Arts Commission has reviewed the design and location for the Sculpture and recommends the Sculpture donation be approved, and

WHEREAS, Gene Goff has entered into an Agreement with the City to provide for the donation of the sculpture to the City, and

WHEREAS, the City Council finds and declares that the Sculpture will be an amenity to the Eagle View Park and that the terms of the Agreement are reasonable.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brighton as follows:

1. The ***“Agreement Regarding the Donation of A Sculpture by Gene Goff to be Installed At Eagle View Park”*** by and between the City of Brighton and Gene Goff, a copy of which is attached hereto, is hereby approved.
2. The City Manager is authorized to execute said Agreement on behalf of the City and to undertake such actions and execute such other documents as may be necessary to carry out the terms of the Agreement.

RESOLVED this 15th day of July, 2014.

CITY OF BRIGHTON, COLORADO

By: _____
Richard N. McLean, Mayor

ATTEST:

APPROVED AS TO FORM:

Natalie Hoel, City Clerk

Margaret R. Brubaker, Esq.
City Attorney

**AGREEMENT REGARDING
THE DONATION OF A SCULPTURE BY GENE GOFF TO BE INSTALLED IN
EAGLE VIEW PARK**

THIS AGREEMENT is entered into this ____ day of _____, 2014, by and between the City of Brighton, Colorado doing business at 500 South 4th Avenue, Brighton, Colorado (hereinafter “City”) and Gene Goff, (3928 E. Paso Ct., Brighton, CO) (hereinafter “Gene Goff”).

WHEREAS, Gene Goff have presented a plan for the donation and placement of a sculpture in Eagle View Park in the City of Brighton (the “Yucca Sculpture”), which plan has been reviewed and approved by the Senior Advisory Board, the City Park and Recreation Advisory Board, and the Brighton Cultural Arts Commission; and

WHEREAS, Gene Goff has agreed to donate the Sculpture to the City, and the City has agreed to maintain the Sculpture as more particularly set forth herein; and

WHEREAS, the Parties hereto are desirous of setting forth their agreements and understandings regarding the Monumental Sculpture.

NOW, THEREFORE, in consideration of the above recitals which the Parties acknowledge as material hereto, together with other good and sufficient consideration, the sufficiency of which the Parties acknowledge, the Parties agree as follows:

1. Gene Goff shall donate to the City a sculpture (“Yucca Sculpture”) for placement in Eagle View Park, in a location to be determined by the Senior Center Advisory Board. Said donation shall be by bill of sale or other acceptable form of conveyance.
2. The City shall install the Sculpture and the accompanying lighting, maintain the area around the sculpture, including mowing, weeding, repair and replacement of plants and vegetation, and shall provide reasonable maintenance of the sculpture, including without limitation the removal of any graffiti thereon.
3. The Parties acknowledge and agree that the Sculpture shall be and is the sole property of the City of Brighton, and that the City shall have the authority to make such modifications or improvements to the Sculpture as deemed necessary and appropriate.

Executed this ____ day of _____, 2014

CITY OF BRIGHTON, COLORADO

Manuel Esquibel, City Manager

ATTEST:

Natalie Hoel, City Clerk

Gene Goff

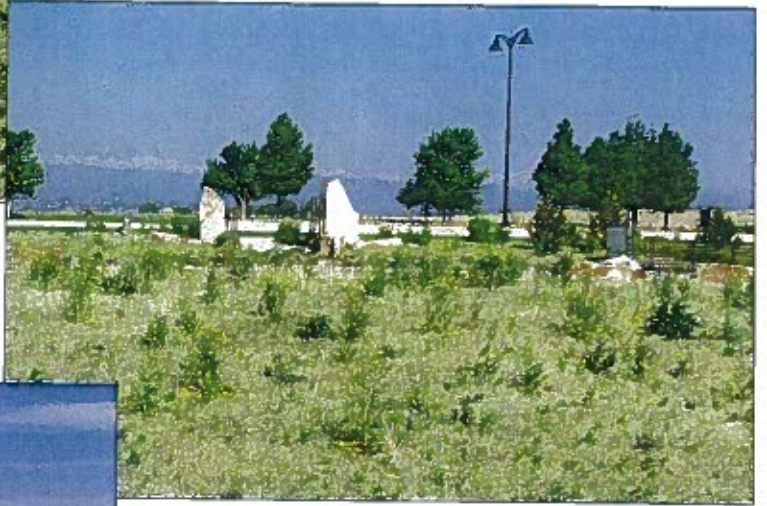
COUNTY OF ADAMS)
) SS
STATE OF COLORADO)

The foregoing Agreement was acknowledged before me this _____ day of _____, 2014, by Gene Goff.

By: Notary Public

My commission expires: _____





**City Council
Agenda Item
9C**

Department of Parks and Recreation

Reference: *Resolution Approving the Submittal of a Grant Application to Adams County for an amount not to exceed \$3,600.00 for the Pheasant Ridge Park – High School Seniors Beautification Project, and to Authorize the City Manager to Sign the Grant Application.*

To: Mayor Richard N. McLean and Members of City Council
Through: Manuel Esquibel, City Manager

☐ Attorney Reviewed: _____ ☐ Regular Council Agenda Date: _____
☐ Finance Reviewed: _____ ☐ Resolution / Ordinance # _____
☐ Publication Dates: _____

Prepared By: Gary Wardle, Director of Parks and Recreation; and
Mark Heidt, Assistant Director of Parks and Recreation

Date Prepared: July 8, 2014

PURPOSE

A Resolution authorizing the City of Brighton to submit to Adams County Open Space, an Open Space Mini-Grant Application requesting grant funding in the amount not to exceed \$3,600.00 for the “Pheasant Ridge Park – High School Seniors Beautification Project”; and to authorize the City Manager to sign the Grant Application.

BACKGROUND

The Parks and Recreation Department, during the springs of 2012, 2013, and 2014 have worked with Brighton High School on park beautification projects with their High School Seniors. (The Seniors have completed three beautification projects within the City’s Open Space and Parks instead of participating in “Senior Ditch Day”).

Due to the huge success and growth in participants of the past three High School Seniors Beautification Projects; the City’s Parks and Recreation Department – Parks Section realizes that Pheasant Ridge Park is in need of additional flowers, shrubs and trees and that the Pheasant Ridge Park – High School Seniors Beautification Project is an appropriate project for the Seniors in 2015. The above listed items are being requested from this Adams County Open Space Mini-Grant.

The total amount of the proposed Adams County Open Space Mini-Grant application is \$6,000.00. The City’s match for this Project is \$2,400.00 (40% of the total) for the purchase of flowers, shrubs, and trees. This \$3,600.00 (60% of the total) Adams County Open Space Mini-Grant funding will be used to purchase the remaining amount of flowers, shrubs and trees. (Adams County Open Space “active mini-grant” projects must have municipal matches of 40% or greater.)

In order to receive the Adams County Grant monies, the attached Resolution must be approved by City Council prior to submitting the Grant Application. The Resolution authorizes the City to apply for Adams County Open Space Grant funding through the Grant Application, and authorizes the City Manager to sign the Grant Application.

FINANCIAL IMPACT

Awarded Adams County Open Space Mini-Grant funds in the amount not to exceed \$3,600.00 will be used for the “Pheasant Ridge Park – High School Seniors Beautification Project”. This project includes flowers, shrubs, and trees.

OPTIONS FOR COUNCIL CONSIDERATION

- Approve the Resolution, or
- Not approve the Resolution.

STAFF RECOMMENDATION

It is recommended that City Council approve the Resolution authorizing Staff to submit an Adams County Open Space Mini-Grant Application, and authorizing the City Manager to sign the Mini-Grant Application with Adams County Open Space in an amount not to exceed \$3,600 for the “Pheasant Ridge Park – High School Seniors Beautification Project”.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO ADAMS COUNTY OPEN SPACE IN THE AMOUNT NOT TO EXCEED THREE THOUSAND SIX HUNDRED DOLLARS (\$3,600.00), FOR THE PHEASANT RIDGE PARK – HIGH SCHOOL SENIORS BEAUTIFICATION PROJECT; AND AUTHORIZING THE CITY MANAGER TO SIGN THE GRANT APPLICATION.

WHEREAS, the City Council of the City of Brighton determines that it is appropriate for the City to apply for an Adams County Open Space Mini-Grant, for the planting project entitled, “Pheasant Ridge Park – High School Seniors Beautification Project” (the “Project”); and

WHEREAS, the City Council believes that the development of the Project and the inclusion of High School Seniors within this Project is essential to the health, safety and welfare of the citizens of Brighton, and that this type of recreational Project is a needed amenity within Brighton; and

WHEREAS, the citizens of Brighton have expressed support for the Project that will be completed within Pheasant Ridge Park; and

WHEREAS, the City of Brighton owns the Pheasant Ridge Park land that is being considered for the location of the Project; and the City has a proven record of successfully completing grant-funded public projects and properly maintaining such projects after they are constructed; and

WHEREAS, toward that end, the City of Brighton City Council finds and determines that it is proper to apply for a \$3,600.00 Mini-Grant from Adams County Open Space, to partially fund the Project for the public benefit; and

WHEREAS, the City of Brighton estimates that the total cost of the Project , as set forth in the Adams County Open Space – Mini-Grant Application, will be \$6,000.00, of which City is presently applying through an Adams County Open Space Mini-Grant for funding of the Project in an amount not to exceed \$3,600.00, and the City is funding the remaining amount of \$2,400.00 through the 2015 budget; and

WHEREAS, the City of Brighton City Council believes that it is reasonable and proper for the City to enter into a written agreement with Adams County Open Space, provided that Adams County Open Space issues the Adams County Open Space – Mini-Grant, for the budgeting, allocation and contribution of funds to the Project in the amounts contemplated herein; and

WHEREAS, the City Council upon receiving a Grant Agreement from Adams County Open Space, will have an opportunity to review the language of the Agreement before authorizing the signing of the Agreement; and

WHEREAS, the City Council finds and determines that said Grant Agreement would be necessary and proper in order to proceed with the Project, and that it is in the best interests of the City to approve entering into such an Agreement should the Adams County Open Space grant be awarded.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, AS FOLLOWS:

1. The City Staff is hereby authorized to submit to Adams County Open Space the attached Application for an Adams County Open Space – Mini-Grant, for Pheasant Ridge Park – High School Seniors Beautification Project, and the City Manager is authorized to sign the Grant Application on behalf of the City.
2. Upon the City’s receipt of a written acknowledgement from Adams County, that Adams County Open Space will fund the Application in the amount not to exceed \$3,600.00, the City Manager or his designee is directed to commence good faith negotiations for a reasonable “*Grant Agreement*” between the City and Adams County Open Space, for consideration by the City Council.

RESOLVED, this 15th day of July 2014.

CITY OF BRIGHTON, COLORADO

ATTEST:

By: _____
Richard N. McLean, Mayor

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, Esq.
City Attorney

City Council Agenda Item 9D

Department of Parks and Recreation

Reference: *Resolution Approving the Submittal of a Grant Application to Adams County Open Space for an amount not to exceed \$180,000.00 for the Northgate Park Design and Construction Project and to authorize the City Manager to sign the Grant Application.*

To: Mayor Richard N. McLean and Members of City Council
Through: Manuel Esquivel, City Manager

☐ Attorney Reviewed: _____ ☐ Regular Council Agenda Date: _____
☐ Finance Reviewed: _____ ☐ Resolution / Ordinance # _____
☐ Publication Dates: _____

Prepared By: Gary Wardle, Director of Parks and Recreation; and
Mark Heidt, Assistant Director of Parks and Recreation

Date Prepared: July 8, 2014

PURPOSE

A Resolution authorizing the City of Brighton to submit to Adams County Open Space – Active Grant Application, requesting grant funding in the amount not to exceed \$180,000, for the design and construction of Northgate Park; and to authorize the City Manager to sign the Grant Application.

BACKGROUND

The Parks and Recreation Department Staff will apply for grant funding from Adams County Open Space for the design and construction of Northgate Park. Presently, the City has Park Impact Fees (PIF) collected from the developer of the Northgate subdivision in the amount of \$428,000. \$425,000 of that amount will be used as a City match within the grant application to address design and construction of the park.

The Northgate subdivision is completely built out and all PIF for the park have been collected by the City. Over the past six years, the Parks and Recreation Department has received numerous requests from the neighborhood to build a park at the site. Presently, the park site is a vacant lot adjacent to the Foundations Charter School that is surrounded by homes that all face the vacant lot. Stanley Consultants, Inc., Norris Design, and Artifex10 (all Landscape Architect Firms) have provided the Department, free of cost, with conceptual cost estimates to develop a park and conceptual park site plans that are readily useable for the grant application. The Adams County Open Space Grant Application is for the design and construction of the park and will include: concrete and crusher fines paths, shade shelter, picnic tables, benches, bike rack, trash receptacle, monument sign, interpretive sign, drinking fountain, playground with poured in place safety surfacing, trees, shrubs, turf, irrigation, and additional landscaping. The Department feels, if grant funds are received from Adams County, that the park construction can begin in 2015.

The estimated total cost for designing and constructing Northgate Park is \$605,000.00. \$180,000.00 (29.75% of the total project) is being requested through this Adams County Open Space – Active Grant Application for the design and construction of Northgate Park. The City of Brighton will cover the remaining costs through the collected PIF of \$425,000.00 (70.25% of the total project) for this project.

The Parks and Recreation Department is also requesting that the City Manager be authorized to sign the Adams County Open Space - Active Grant Application for Northgate Park design and construction.

FINANCIAL IMPACT

The Adams County Open Space - Active Grant funds not to exceed \$180,000.00 and will be used for the design and construction of Northgate Park.

OPTIONS FOR COUNCIL CONSIDERATION

- Approve the Resolution, or
- Deny the Resolution.

STAFF RECOMMENDATION

It is recommended that City Council approve the Resolution authorizing the City of Brighton, through Staff, to submit the Adams County Open Space – Active Grant Application in the amount not to exceed \$180,000.00, for the design and construction of Northgate Park; and to authorize the City Manager to sign the Grant Application.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO ADAMS COUNTY OPEN SPACE IN THE AMOUNT OF ONE HUNDRED EIGHTY THOUSAND DOLLARS (\$180,000.00), FOR THE NORTHGATE PARK DESIGN AND CONSTRUCTION PROJECT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION.

WHEREAS, the City Council of the City of Brighton determines that it is appropriate for the City to apply for an Adams County Open Space Grant, for the design and construction project entitled, “Northgate Park Design and Construction Project” (the “Project”); and

WHEREAS, the City Council believes that the development of the Project is essential to the health, safety and welfare of the citizens of Brighton, and that this type of recreational Project is a needed amenity within Brighton; and

WHEREAS, the City Council finds that the existing site is a vacant lot and does not presently meet the needs of the Brighton citizens; and

WHEREAS, the citizens of Brighton have expressed support for the design and construction of Northgate Park that is located within Brighton; and

WHEREAS, the City of Brighton owns the Northgate Park land that is being considered for the location of the Project; and the City has a proven record of successfully completing grant-funded public projects and properly maintaining such projects after they are constructed; and

WHEREAS, toward that end, the City of Brighton City Council finds and determines that it is proper to apply for a \$180,000.00 Grant from Adams County Open Space, to partially fund the design and construction of the Project for the public benefit; and

WHEREAS, the City of Brighton estimates that the total cost of the Project , as set forth in the Adams County Open Space – Active Grant Application, will be \$605,000.00, of which City is presently applying through an Adams County Open Space Grant for funding the Project in the amount of \$180,000.00, and the City is funding the remaining \$425,000.00 through available City park funds; and

WHEREAS, the City of Brighton City Council believes that it is reasonable and proper for the City to enter into a written agreement with Adams County Open Space, provided that Adams County Open Space issues the Adams County Open Space – Active Grant, for the budgeting, allocation and contribution of funds to the Project in the amounts contemplated herein; and

WHEREAS, the City Council upon receiving a Grant Agreement from Adams County Open Space, will have an opportunity to review the language of the Agreement before authorizing the signing of the Agreement; and

WHEREAS, the City Council finds and determines that said Grant Agreement would be necessary and proper in order to proceed with the Project, and that it is in the best interests of the City to approve entering into such an Agreement should the Adams County Open Space grant be awarded.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, AS FOLLOWS:

1. The City Staff is hereby authorized to submit to Adams County Open Space the attached Application for an Adams County Open Space – Active Grant, for the “Northgate Park Design and Construction Project”, and the City Manager is authorized to sign the Grant Application on behalf of the City.
2. Upon the City’s receipt of a written acknowledgement from Adams County, that Adams County Open Space will fund the Application in the amount of \$180,000.00, the City Manager or his designee is directed to commence good faith negotiations for a reasonable “*Grant Agreement*” between the City and Adams County Open Space, for consideration by the City Council.

RESOLVED, this 15th day of July 2014.

CITY OF BRIGHTON, COLORADO

ATTEST:

By: _____
Richard N. McLean, Mayor

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, Esq.
City Attorney

**City Council
Agenda Item
9E**

Department of Parks and Recreation

Reference: A Resolution approving an amendment to the Cooperative Agreement with Sand Creek Regional Greenway Partnership, Inc. to Develop the Northeast Greenway Restoration Plan for the Recovery Fund Projects.

To: Mayor Richard N. McLean and Members of City Council
Through: Manuel Esquibel, City Manager

☐ Attorney Reviewed: _____ ☐ Regular Council Agenda Date: _____
☐ Finance Reviewed: _____ ☐ Resolution / Ordinance # _____
☐ Publication Dates: _____

Prepared By: Gary Wardle, Director of Parks and Recreation

Date Prepared: July 7, 2014

PURPOSE

Adopting a Resolution approving an amendment to the Cooperative Agreement with Sand Creek Regional Greenway Partnership, Inc. to develop the Northeast Greenway Restoration Plan for the Recovery Fund Projects.

BACKGROUND

In 2006 the City of Brighton, Commerce City, the City of Aurora, the City of Denver, the City of Thornton, Adams County, and the Sand Creek Regional Greenway Partnership, Inc. (SCRGP), and the City and County of Denver entered into an agreement to form the Northeast Greenway Corridor Advisory Committee (NGC). The NGC was formed to create a regional greenway system in the North Metro area with the Rocky Mountain Arsenal at the center. The NGC was established to implement the Consent Decree between the Shell Oil Company and the State of Colorado regarding natural resource damages at the Rocky Mountain Arsenal through the NGC Restoration Plan.

The Consent Decree provides the NGC with \$10,000,000 to be used to acquire or replace natural resources that were damaged at the Arsenal. There is an additional \$17,400,000 in the Colorado Natural Resources Foundation Fund to be used for projects in a larger area of the Metro Front Range (Recovery Fund). The Natural Resources Trustees have agreed to allow the NGC to lead the process to identify Recovery Fund Projects to be funded with the \$17,400,000.

In 2010 the Northeast Greenway Advisory Committee entered into a Cooperative Agreement with the Sand Creek Regional Greenway Partnership to fund the development of a master plan of project to be funded by the consent decree. The Master plan was completed and the Foundation Fund Projects were approved by the Natural Resources Damages Trustees. The current priority for the Advisory Committee is to produce a Restoration Plan for the Recovery Fund Projects. Attached is an amendment to the

original Cooperative Agreement to allow the Sand Creek Regional Greenway Partnership Inc., a 501(c)(3) Foundation to take on the oversight of this project.

The SCRGP has solicited additional funding, including grants from Adams County. Each of the entities will be contributing funds to the costs for completion of the Restoration Plan. The City of Brighton's share of those costs is \$2,000. These funds are available in the Park and Recreation Administration Budget.

Attached is a Resolution approving an amendment to the Cooperative Agreement with Sand Creek for NGC Restoration Plan Process, agreeing to allow the SRCGP to manage the Northeast Greenway Corridor Restoration Plan Project and approving the payment of the City of Brighton's share of the Restoration Plan project in the amount of \$2,000.

The project in Brighton project is to enhance the Ken Mitchell Open space area. We have applied for a \$2,000,000 grant to restore the wildlife habitat values to the Ken Mitchell Open Space and to acquire approximately 16 acre of land around the Aichleman House.

FINANCIAL IMPACT

The City of Brighton Share of the Northeast Greenway Corridor Master Plan is \$2,000

OPTIONS FOR COUNCIL CONSIDERATION

- 1) **Approve the Resolution**
- 2) **Not approve the Resolution**

STAFF RECOMMENDATION

Staff recommends approval of the Amendment to the Cooperative Agreement.

A RESOLUTION APPROVING THAT CERTAIN AMENDMENT TO THE COOPERATIVE AGREEMENT BETWEEN THE CITY OF BRIGHTON AND THE SAND CREEK REGIONAL GREENWAY PARTNERSHIP INC. FOR THE NORTHEAST GREENWAY CORRIDOR RESTORATION PLAN PROJECT; APPROVING THE CITY'S CONTRIBUTION OF TWO THOUSAND DOLLARS (\$2,000) AS ITS SHARE OF THE COSTS FOR SUCH PROJECT; AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY.

RESOLUTION NO. _____

WHEREAS, the City of Brighton entered in to the Northeast Greenway Corridor Cooperative Agreement in 2006 with Adams County, the City of Aurora, the City of Brighton, the City of Commerce City, the City of Thornton, the City and County of Denver and the Sand Creek Regional Greenway Partnership, Inc. ("SCRGP"), to participate in the Northeast Greenway Corridor to preserve a world-class urban greenway and open space network known as the Northeast Greenway Corridor ("NGC Project"), covering approximately 150 miles of urban greenways and open spaces that surround the Rocky Mountain Arsenal National Wildlife Refuge and extend from Denver to Brighton and Commerce City to Aurora; and

WHEREAS, by the terms of Consent Decree entered in 2006, the Colorado Natural Resources Foundation Fund ("Foundation Fund") was created to be used for restoring, replacing, and acquiring resources in relation to the NGC Project; and

WHEREAS, in 2010 the governmental entities and SCRGP have entered into a Cooperative Agreement (the "Cooperative Agreement") to continue the process of implementing the Consent Decree by the creation and implementation of the Northeast Greenway Corridor Restoration Plan and to designate SCRGP to assume responsibility for that task; and

WHEREAS, there is a need to enter into an amendment to the Cooperative Agreement to develop the list of projects to be funded by the Recovery Fund, and

WHEREAS, by the terms of the amendment to the Cooperative Agreement, the City agrees to contribute \$2,000 as its share of the costs for Restoration Plan process; and

WHEREAS, the City Council finds and determines that the terms of the Amendment to the Cooperative Agreement are reasonable and that the City's participation in this project is in the best interests of the citizens of Brighton.

NOW, THEREFORE BE IT RESOLVED, by the City Council for the City of Brighton, Colorado that:

1. The Amendment to the Cooperative Agreement with the Sand Creek Regional Greenway Partnership for the Northeast Greenway Corridor Restoration Plan Process is hereby approved and the Mayor is authorized to execute said Agreement on behalf of the City.
2. The Payment of \$2,000 is approved as the City of Brighton's share of the cost for the Restoration Plan Process under the Cooperative Agreement.

Dated this 15th day of July 2014.

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

Approved as to Form:

Margaret Brubaker, City Attorney

AMENDMENT TO
COOPERATIVE AGREEMENT WITH SAND CREEK
REGARDING NORTHEAST GREENWAY CORRIDOR RESTORATION PLAN PROCESS

THIS AGREEMENT, made this _____ day of _____, 2014, by and between Adams County, the City of Aurora, the City of Brighton, the City of Commerce City, the City of Thornton, and the City and County of Denver (collectively, the "Governmental Entities"), and the Sand Creek Regional Greenway Partnership, Inc., a Colorado non-profit corporation ("SCRGP") and collectively referred to herein as the "parties".

WITNESSETH:

WHEREAS, parties have entered into "Cooperative Agreement With Sand Creek Regarding NGC Restoration Plan Process" dated November 22, 2010; and

WHEREAS, parties now desire to proceed with completion of a comprehensive restoration plan that will include a list of vetted Recovery Fund projects for funding that are intended to restore, replace, and acquire resources to compensate for the loss suffered at the Rocky Mountain Arsenal; and

WHEREAS, parties desire to increase the level of funding by \$113,000; and

WHEREAS, the Governmental Entities and SCRGP have authorized, by appropriation or resolution, all of the restoration plan costs of the respective parties.

NOW, THEREFORE, in consideration of the mutual promises contained herein, parties hereto agree as follows:

1. Paragraph 4.(c). is deleted and replaced as follows:

4.(c). On or before August 31, 2014 each Governmental Entity will contribute an amount to SCRGP to be deposited with other moneys received for the restoration plan development project in the NGC Restoration Plan Account and to be used according to this Agreement, as follows:

	<i>Additional Contribution</i>	<i>Previously Contributed</i>
Adams County	\$10,000	\$10,000
City of Aurora	\$20,000	\$20,000
City of Brighton	\$2,000	\$5,000
City of Commerce City	\$20,000	\$20,000
City of Thornton	\$0	\$5,000
City and County of Denver	\$20,000	\$20,000
Sand Creek Regional Greenway Partnership, Inc.	\$1,000	\$0

2. Paragraph 5. **PROJECT FUNDING; SCRGP FEES AND EXPENSES** is deleted and replaced as follows:

5. PROJECT FUNDING; SCRGP FEES AND EXPENSES. In addition to the funds provided for under section 4 (c) herein, SCRGP has engaged in fundraising efforts to obtain grants of additional funds (the "Additional Funds") to cover Contractor(s) fees and expenses and SCRGP's fees and expenses projected for carrying out this Agreement, in the total amount of \$293,000. SCRGP's responsibilities and duties under this Agreement are contingent on SCRGP's receipt of all funds provided for under section 4(c) plus all Additional Funds.

SCRGP shall be authorized to disburse the following estimated amounts from the NGC Restoration Plan Account:

<u>AMOUNT</u>	<u>ITEM</u>	<u>ORIGINAL</u>
\$113,000	Contractor(s) fees and expenses	\$157,000
	SCRGP staff time (at the rate of 40/hr)	\$6,000
	Audit and accounting expense	\$4,000
	Legal expenses and costs associated With this Agreement and Contractor	
	Service contract(s)	\$6,000
	Other project expenses, including Without limitation insurance	
	Coverage provided for herein, supplies etc.	\$7,000

3. All other terms and conditions of COOPERATIVE AGREEMENT WITH SAND CREEK FOR NGC RESTORATION PLAN PROCESS shall remain in effect.

WHEREFORE, PARTIES hereto have caused this instrument to be executed by properly authorized signatories as of the date and year first above written.

GOVERNMENT ENTITIES:

City of Brighton

Richard N. McLean, Mayor

Date

ATTEST:

Natalie Hole, City Clerk

Approved as to Form:

Margaret Brubaker, City Attorney

COOPERATIVE AGREEMENT WITH SAND CREEK FOR NGC RESTORATION PLAN PROCESS

THIS COOPERATIVE AGREEMENT (“Agreement”) is by and between Adams County, the City of Aurora, the City of Brighton, the City of Commerce City, the City of Thornton, and the City and County of Denver (collectively, the “Governmental Entities”), and the Sand Creek Regional Greenway Partnership, Inc., a Colorado non-profit corporation (“SCRGP”). The Governmental Entities and SCRGP are collectively referred to herein as the “parties.”

WHEREAS, the Governmental Entities and SCRGP are members of the Northeast Greenway Corridor Advisory Committee (“NGC Advisory Committee”), an inter-jurisdictional partnership, which also includes a representative of Shell Oil Company.

WHEREAS, the mission of the NGC Advisory Committee is to preserve a world-class urban greenway and open space network known as the Northeast Greenway Corridor (“NGC Project”), covering approximately 150 miles of urban greenways and open spaces that surround the Rocky Mountain Arsenal National Wildlife Refuge and extend from Denver to Brighton and Commerce City to Aurora; and

WHEREAS, the Consent Decree between the State of Colorado and Shell Oil Company, approved by the U.S. District Court for Colorado on October 2, 2008 in Civil Action No. 83-C-2386, created a Colorado Natural Resources Foundation Fund (“Foundation Fund”) to be used for restoring, replacing, and acquiring resources in relation to the NGC Project; and

WHEREAS, the current priority for the NGC Advisory Committee is to produce a restoration plan for the NGC Project that will include a list of vetted projects for funding that are intended to restore, replace, and acquire resources to compensate for the loss suffered at the Rocky Mountain Arsenal; and

WHEREAS, the NGC Advisory Committee has initiated a competitive RFP process to hire a contractor to produce an integrated comprehensive restoration plan that represents the NGC Advisory Committee's vision and desires for the NGC Project development (the "NGC Restoration Plan");

WHEREAS, the Governmental Entities desire to designate SCRGP to be the NGC Advisory Committee's facilitator/administrator for completion of the RFP process and engaging a contractor or contractors to assist the NGC Advisory Committee in developing and approving the NGC Restoration Plan.

NOW THEREFORE, in consideration of the above and for the purposes of establishing the SCRGP as facilitator/administrator for the NGC Advisory Committee for the purposes stated herein, the Governmental Entities and SCRGP agree as follows:

1. **DUTIES OF SCRGP.** At the direction of the Governmental Entities, SCRGP agrees to provide services for the NGC Advisory Committee in connection with development and approval of the NGC Restoration Plan. SCRGP's responsibilities and duties shall include the following:
 - (a) Assist the NGC Advisory Committee in completing the competitive RFP process to select a contractor or contractors to develop the NGC Restoration Plan;
 - (b) Accept and enter into a services contract with the contractor or contractors selected by the NGC Advisory Committee to develop the NGC Restoration Plan and obtain approval by the NGC Advisory Committee (the contractor or contractors shall together be referred to as "Contractor(s)");
 - (c) Establish an account with monies designated for payment of costs associated with the NGC Restoration Plan development and approval by the NGC Advisory

Committee (“NGC Restoration Plan Account”), with such costs including Contractor(s) fees and expenses, and other NGC Restoration Plan project expenses, as described herein;

(d) Make application for, receive and deposit revenues in the NGC Restoration Plan Account in connection with the NGC Restoration Plan development and approval;

(e) Disburse funds, including Contractor fees and expenses, and other project expenses, in accordance with Contractor(s) contract for NGC Restoration Plan development services and this Agreement; and

(f) Support and assist the Contractor(s) and NGC Advisory Committee in the process of NGC Restoration Plan development and approval by the NGC Advisory Committee.

(g) Such other duties as requested by the Governmental Entities to enable the Governmental Entities’ implementation of the NGC Restoration Plan.

2. **ACCOUNTING AND AUDIT.** All funds deposited in the NGC Restoration Plan Account for the NGC Restoration Plan shall be tracked as a separate account within the SCRGP’s accounting system, shall be limited to the uses and purposes as provided in this Agreement, shall be subject to generally accepted accounting and financial safeguards to protect against loss, and shall be subject to a final audit of the project, to be conducted by SCRGP’s auditors.

3. **ACCOUNTING INFORMATION.** SCRGP shall provide to the Governmental Entities account statements showing the balance in the NGC Restoration Plan Account and any deposits or withdrawals from the NGC Restoration Plan Account, along with an itemization of the receipts and expenditures, on a quarterly or more frequent basis upon request by any Governmental Entity. Upon completion of the NGC Restoration Plan,

SCRGP shall also prepare a final statement for the NGC Restoration Plan Account, showing all deposits and withdrawals, as well as an accounting for the final disposition of any surplus.

4. DUTIES OF THE GOVERNMENTAL ENTITIES.

(a) Within 30 days following execution of this Agreement by all parties hereto, each Governmental Entity shall designate an individual or individuals to serve as a liaison to SCRGP in connection with its duties under this Agreement and the NGC Restoration Plan project, and for the purpose of providing communications and approvals needed to carry out this Agreement.

(b) Each Governmental Entity agrees to use its best efforts to cooperate with SCRGP, the Contractor(s), and the other Governmental Entities in developing and approving the NGC Restoration Plan.

(c) On or before December 10, 2010, each Governmental Entity will contribute an amount to SCRGP to be deposited with other moneys received for the Restoration Plan development project in the NGC Restoration Plan Account and to be used according to this Agreement, as follows:

Adams County	\$10,000
City of Aurora	\$20,000
City of Brighton	\$5,000
City of Commerce City	\$20,000
City of Thornton	\$5,000
City and County of Denver	\$20,000

5. PROJECT FUNDING; SCRGP FEES AND EXPENSES. In addition to the funds provided for under section 4(c) herein, SCRGP has engaged in fundraising efforts to obtain grants of additional funds (the “Additional Funds”) to cover the Contractor(s) fees and expenses and SCRGP’s fees and expenses projected for carrying out this Agreement, in the total amount of \$180,000. SCRGP’s responsibilities and duties under this Agreement are

contingent on SCRGP's receipt of all funds provided for under section 4(c) plus all Additional Funds. SCRGP shall be authorized to disburse the following estimated amounts from the NGC Restoration Plan Account:

\$157,000	Contractor(s) fees and expenses
\$ 6,000	SCRGP staff time (at the rate of \$40/hr.)
\$ 4,000	Audit and accounting expense
\$ 6,000	Legal expenses and costs associated with this Agreement and Contractor service contract(s)
\$ 7,000	Other project expenses, including without limitation insurance coverage provided for herein, supplies etc.

6. STATUS AND AUTHORITY OF SCRGP.

A. Independent Contractor. SCRGP and the Governmental Entities acknowledge and agree that the status of SCRGP shall be that of a private, nonprofit corporation cooperatively working with the Governmental Entities and the NGC Advisory Committee, as an independent contractor solely for the purposes set forth in this Agreement.

B. Limited Authority. The scope of authority SCRGP may exercise shall be as expressly delegated, assigned, or allowed under, or necessarily implied in, this Agreement. SCRGP shall have no authority to avoid, modify, or waive any applicable ordinances or regulatory requirements enacted or adopted under the police or taxing powers of the Governmental Entities.

C. Contracts. This Agreement shall not be construed to grant SCRGP the right or power to bind, or to impose liability upon, any Governmental Entity, through any contracts or agreements SCRGP may make, unless expressly provided herein or unless the prior, written approval of the affected Governmental Entity is obtained and the contract or agreement is in accordance with all applicable ordinances and regulatory requirements. All contracts or

agreements made by SCRGP shall be in its own name and not in the name of the Governmental Entity.

D. Nonprofit Status. SCRGP shall at all times take such actions as may be necessary to maintain and preserve, and shall refrain from taking such actions as may be detrimental to, its status as a nonprofit corporation that qualifies as a tax exempt entity under section 501(c)(3) of the Internal Revenue Code (or any successor provision).

7. **REPORTS.** In addition to the audit information specified in section 8 below, SCRGP shall, on an annual basis, provide the Governmental Entities a copy of any written report and/or return it has provided to the Internal Revenue Services with respect to its activities during the preceding year. In addition, SCRGP shall submit a reconciliation statement of its revenues and expenses on or before June 30th of each calendar year in such detail as the Governmental Entities may require.

8. **INSPECTION & AUDIT.** SCRGP shall maintain its books and records in the City and County of Denver, the City of Aurora, or the City of Commerce City at a place known at all times to the Governmental Entities. Representatives of the Governmental Entities shall have the right to reasonably inspect and copy such books and records from time to time upon written notice to SCRGP. SCRGP shall maintain its financial records in accordance with generally accepted accounting principles consistently applied. At any time after five (5) business days prior notice to SCRGP of its intention to do so, and only once within any twelve (12) month period and at its own cost, any Governmental Entity may cause to be made a complete audit of the records of SCRGP for any fiscal period within the preceding five (5) years. However, upon reasonable information of possible violations of this Agreement or misconduct on the part of SCRGP or its officers, employees or agents, a

Governmental Entity may conduct such inspections and/or audit of the records of SCRGP upon notice to SCRGP that is reasonable under the circumstances. If more than one Governmental Entity wishes to conduct such an inspection or audit, SCRGP has the right to request the Entities to coordinate the timing of such inspection or audit so that SCRGP is not subject to multiple and duplicative inspections/audits concerning the same issues.

9. **POLITICAL ACTIVITY.** No moneys provided by a Governmental Entity and no funds raised or grants obtained by SCRGP, including any earnings thereon, shall be used in connection with any activity to further the appointment, election, defeat, or removal of any applicant, incumbent, or candidate for public office or any activity undertaken to influence the passage, defeat, or final content of any legislation or ballot proposal unrelated to furthering or implementing the NGC Restoration Plan.

10. **INSURANCE.** SCRGP agrees to secure and deliver to an appropriate official of each Governmental Entity at or before the time of execution of this Agreement, and to keep in force at all times during the term of this Agreement, as the same may be extended by amendment, an insurance policy or policies which shall include commercial general liability, business automobile liability, worker's compensation, and crime (employee dishonesty) to the extent and in the amounts specified in Exhibit A to this Agreement. SCRGP shall require its contractor(s) to provide commercial general liability, business automobile liability, worker's compensation, and professional liability for any contractor(s) providing professional services in the same amounts as specified in Exhibit A. Each policy shall name each Governmental Entity as an additional insured and shall waive subrogation rights against the Entity. Each policy shall contain a valid provision or endorsement stating "Should any of the above-described policies be canceled or should any coverage be reduced before the

expiration date thereof, the issuing company shall send written notice to the Risk Manager of each Governmental Entity by certified mail, return receipt requested. Such written notice shall be sent thirty (30) days prior to such cancellation or reduction unless due to non-payment of premiums for which notice shall be sent ten (10) days prior.” Failure to maintain insurance coverage as specified in this section shall be a basis for termination with cause under sub-section 14.B below.

11. **IMMUNITY.** Under no circumstances shall any provision of this Agreement be construed as constituting a waiver of immunity on the part of any Governmental Entity or for any of its facilities under the Colorado Governmental Immunity Act.

12. **INDEMNIFICATION.** SCRGP shall save each Governmental Entity and its respective Council Members, Commissioners, elected and appointed officials, officers, agents, servants and employees harmless from and indemnify it and them against any and all damages, liabilities, claims or demands arising out of or incident to SCRGP’s performance of its duties hereunder and defend any cause of action or claims for relief, of whatsoever type or nature, arising out of such performance; provided, however, that the SCRGP need not defend, indemnify or save harmless any such Governmental Entity or other parties described herein from damages or liabilities, to the extent resulting from the sole negligence of the Governmental Entity or such other parties. The Governmental Entity cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the SCRGP or any other persons or entity whatsoever, for any purpose whatsoever. Insurance coverage specified above constitutes the minimum requirements and these requirements do not lessen or limit the liability of SCRGP under this Agreement. SCRGP shall obtain, at its own expense, any additional kinds and amounts of insurance that it may

deem necessary. SCRGP shall at once notify each Governmental Entity of all such claims or demands or the attaching of any lien or charge.

13. **CLAIMS.** In the event that any claim, demand, suit, or other action is made or brought in writing by any person, firm, corporation, or other entity against SCRGP related in any way to this Agreement or the actions or activities of SCRGP hereunder, SCRGP shall give written notice thereof to each Governmental Entity, within five (5) working days after being notified, of such claim, demand, suit, or other action. Such notice shall state the date and hour of notification and shall include a copy of any such claim, demand, suit, or other action received by SCRGP. Such written notice shall be submitted as provided in section 22 below.

14. **TERM & TERMINATION.**

A. Term. The term of this Agreement shall be from the effective date of this Agreement until it is terminated through mutual written agreement by all the parties, unless otherwise earlier terminated as provided below.

B. Termination with Cause. The Governmental Entities may, upon consent of at least two-thirds of them, terminate the Agreement, with cause, if they determine SCRGP is in breach of a material obligation or requirement under this Agreement and SCRGP fails to take all of the curative actions set forth in a written notice of breach delivered by such Entities to SCRGP within the period of time set forth in such notice (which shall be no less than thirty (30) days). No assent, express or implied, by an Entity to any breach by SCRGP shall be construed as a waiver of any succeeding breach.

C. Discretionary Termination. The Governmental Entities, on agreement by two-thirds of them, or SCRGP may unilaterally terminate this Agreement at any time after providing thirty (30) days' prior written notice to all other parties.

D. Discretionary Withdrawal. Any Governmental Entity may withdraw from participation in this Agreement by providing written notice to all parties. If a Governmental Entity withdraws from this Agreement, the Agreement shall continue in full force and effect unless and until it is terminated or expires as provided herein. A withdrawing Governmental Entity shall not be entitled to recover funds contributed under section 4 above if such funds have been expended or are committed for payment under an executed agreement with the Contractor(s). In addition, the NGC Advisory Committee, in its discretion, may determine that projects of a Governmental Entity that has chosen to withdraw may not be included in the Restoration Plan.

E. Effect (for Dissolution). Upon termination of the Agreement, and if SCRGP is to dissolve within one year of said termination, SCRGP shall promptly and seriatim:

(1) Establish a reserve, as deemed sufficient by SCRGP, to cover all outstanding or potential costs and financial obligation of SCRGP under this Agreement;

(2) Return any unexpended funds contributed by any Governmental Entity that were to be expended in accordance with this Agreement unless such funds have been earned and are due to be paid to a Contractor or are otherwise approved for payment pursuant to this Agreement;

(3) Pay all other outstanding costs and resolve all financial obligations of SCRGP and dissolve SCRGP, in accordance with Colorado law.

(4) Effect (if no Dissolution). Upon termination of the Agreement and if SCRGP is not to dissolve within one year of said termination, SCRGP shall promptly return any unexpended funds that were contributed by a Governmental Entity for the purposes of this Agreement to such Entity unless such funds have been earned and are due to be paid to a Contractor or are otherwise approved for payment pursuant to this Agreement.

15. **NON-DISCRIMINATION.** SCRGP agrees to comply with all applicable laws concerning non-discrimination against persons because of their race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability in connection with membership on the board of directors of SCRGP and its regular activities and actions. In connection with the performance of work under this Agreement, SCRGP agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts or agreements into which it may enter.

16. **COMPLIANCE WITH C.R.S. § 8-17.5-101, ET. SEQ. AS AMENDED 5/13/08.** Pursuant to Colorado Revised Statute (C.R.S.), § 8-17.5-101, *et. seq.*, as amended 5/13/08, SCRGP shall meet the following requirements prior to signing this Agreement (public contract for service) and for the duration thereof:

- A. SCRGP shall certify participation in the E-Verify Program (the electronic employment verification program that is authorized in 8 U.S.C. § 1324a and jointly administered by the United States Department of Homeland Security and the Social Security Administration, or its successor program) or the Department Program (the employment verification program established by the Colorado Department of Labor and Employment pursuant to C.R.S. § 8-17.5-102(5)) on the attached certification.

- B. SCRGP shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.
- C. SCRGP shall not enter into a contract with a subcontractor that fails to certify to SCRGP that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this public contract for services.
- D. At the time of signing this public contract for services, SCRGP has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract for services through participation in either the E-Verify Program or the Department Program.
- E. SCRGP shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this public contract for services is being performed.
- F. If SCRGP obtains actual knowledge that a subcontractor performing work under this public contract for services knowingly employs or contracts with an illegal alien, SCRGP shall: notify the subcontractor and the Governmental Entities within three days that SCRGP has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and terminate the subcontract with the subcontractor if within (3) three days of receiving the notice required pursuant to the previous paragraph, the subcontractor does not stop employing or contracting with the illegal alien; except that SCRGP shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- G. SCRGP shall comply with any reasonable requests by the Department of Labor and Employment (the Department) made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).
- H. If SCRGP violates this Section 16 of this Agreement, the Governmental Entities may terminate this Agreement for breach of contract. If the Agreement is so terminated, SCRGP shall be liable for actual and consequential damages to the Governmental Entities.

17. **ASSIGNMENT.** Except as expressly provided in this Agreement, each Governmental Entity and SCRGP acknowledge and agree that this Agreement and the rights and obligations thereunder shall not be assigned or otherwise transferred to another party.

18. **AMENDMENTS.** This Agreement may be modified, changed, or amended only by mutual written agreement of the parties, approved and executed in the same manner as this Agreement.

19. **INTEGRATION.** This Agreement is intended as the complete integration of all understandings on the subjects herein between the Governmental Entities and SCRGP. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect, unless embodied in this Agreement in writing. Any oral representation by any officer or employee of a Governmental Entity at variance with terms and conditions of this Agreement or any written amendment to this Agreement shall not have any force or effect nor bind the Governmental Entities.

20. **SEVERABILITY.** The parties agree that, if any provision of this Agreement or any portion thereof is held by a court of competent jurisdiction to be invalid, illegal, unenforceable, or in conflict with any law of the State of Colorado or the federal government, except for the provisions of the Agreement requiring prior appropriation of funds and limiting the liability of the Governmental Entities, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

21. **COMPLIANCE WITH LAWS; VENUE.** The parties acknowledge and agree that this Agreement shall be governed by and construed, to the extent applicable, in

accordance with the laws of the State of Colorado, and all applicable ordinances and regulations, as such may be amended or recodified from time to time, and through Executive Orders and that SCRGP shall perform its obligations hereunder in accordance with applicable laws and those applicable rules and regulations promulgated by the Governmental Entities. Venue for any action arising hereunder shall be exclusively in the District Court for the City and County of Denver, Colorado.

22. **NOTICES.** All notices required under this Agreement shall be in writing and delivered as provided in this section (unless the means of delivery is otherwise expressly specified in this Agreement). Notices shall be deemed delivered upon receipt, if delivered personally or by facsimile transmission (receipt verified by telephone), or upon the third day following posting by certified mail, return receipt requested, to the following addresses:

If to SCRGP:

Executive Director
Sand Creek Regional Greenway Partnership
7350 East 29th Avenue, Suite 300
Denver, CO 80238

If to a Governmental Entity, to the address of the respective Governmental Entity's Mayor or County Commissioner as set forth in public record

The address for any party set forth herein may be changed at any time by written notice in the manner provided herein to the other part(ies).

23. **CONFLICT OF INTEREST.** The Governmental Entities and SCRGP agree that no employee of any such Entity shall have any personal or beneficial interest whatsoever in the rights and benefits in this Agreement, and SCRGP further covenants and agrees not to hire or contract for services any employee or officer of a Governmental Entity which would be in violation of relevant ordinances, codes, or regulations of such Entities.

24. **NO THIRD PARTY BENEFICIARY.** The parties understand and expressly agree that enforcement of the terms and conditions of this Agreement shall be strictly reserved to the parties hereto, and nothing contained in this Agreement shall give or allow any such claim or right of action by any third person. It is the express intention of the parties that any person other than any Governmental Entity or SCRGP receiving benefits under this Agreement shall be deemed to be an incidental beneficiary only.

25. **LEGAL AUTHORITY.**

A. SCRGP warrants that it possesses the legal authority, pursuant to any proper and official motion, resolution or action passed or taken, to enter into this Agreement.

B. The person(s) signing and executing this Agreement on behalf of SCRGP does hereby warrant and guarantee that the signatory(ies) below has been fully authorized by SCRGP to execute this Agreement on behalf of SCRGP and to validly and legally bind SCRGP to the obligation and performance of all the terms and conditions herein set forth.

26. **EXECUTION OF AGREEMENT.** This Agreement shall not be or become effective or binding on any Governmental Entity until it has been fully executed by all signatories.

27. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one Agreement.

IN WITNESS WHEREOF, the Governmental Entities and SCRGP have executed this Agreement as of the last day, month, and year stated in the signature blocks below.

GOVERNMENTAL ENTITIES:

ADAMS COUNTY

By: Alice Nichol, Chair
Board of County Commissioners

Date

ATTEST:

Karen Long, Clerk and Recorder

Approved as to Form:

County Attorney

THE CITY OF AURORA

By: Edward Tauer, Mayor

Date

ATTEST:

Debra A. Johnson, City Clerk

Approved as to Form:

City Attorney

THE CITY OF BRIGHTON

By: Dick McLean, Mayor

Date

ATTEST:

Natalie Hoel, City Clerk

Approved as to Form:

City Attorney

THE CITY OF COMMERCE CITY

By: Paul Natale, Mayor

Date

ATTEST:

, City Clerk

Approved as to Form:

City Attorney

THE CITY OF THORNTON

By: Eric Hansen, Mayor

Date

ATTEST:

, City Clerk

Approved as to Form:

City Attorney

THE CITY AND COUNTY OF DENVER

By: John Hickenlooper, Mayor

Date

ATTEST:

Stephanie Y. O'Malley, City Clerk

Approved as to Form:

City Attorney

**SAND CREEK REGIONAL GREENWAY PARTNERSHIP,
INC.**

a Colorado non-profit corporation

BY: _____

Name: Charles
Bayley

SCRGP'S CERTIFICATION OF COMPLIANCE

Pursuant to Colorado Revised Statute, § 8-17.5-101, et.seq., as amended 5/13/08, as a prerequisite to entering into a contract for services with the Governmental Entities, SCRGP hereby certifies that at the time of this certification, SCRGP does not knowingly employ or contract with an illegal alien who will perform work under the attached contract for services and that SCRGP will participate in the E-Verify Program or Department program, as those terms are defined in C.R.S. § 8-17.5-101, et. seq. in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the attached contract for services.

SCRGP:

January 13,2011

Date

Charles Bayley

Name (Print or Type)

Signature

President, Board of Directors, Sand Creek Regional Greenway Partnership

Title

Note: Registration for the E-Verify Program can be completed at: <https://www.vis-dhs.com/employerregistration>. It is recommended that employers review the sample "memorandum of understanding" available at the website prior to registering

EXHIBIT A

Commercial General Liability: \$1,000,000 for each occurrence; \$1,000,000 for each personal and advertising injury claim; \$2,000,000 products and completed operations aggregate; and \$2,000,000 policy aggregate.

Business Automobile Liability: \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement

Workers' Compensation: \$100,000 per occurrence for each bodily injury claim; \$100,000 per occurrence for each bodily injury caused by disease claim; and \$500,000 aggregate for all bodily injuries caused by disease claims.

Commercial Crime: \$260,000.

Professional Liability (Errors & Omissions): \$1,000,000 per claim and \$1,000,000 policy aggregate limit

**City Council
Agenda Item
9F**

Department of Parks and Recreation

Reference: A Resolution Authorizing Purchase of Seven and 00/100 (7.00) Shares of the Fulton Ditch from C&J Sutton LLC

To: Mayor Richard N. McLean and Members of City Council
Through: Manuel Esquibel, City Manager

☐ Attorney Reviewed: _____ ☐ Regular Council Agenda Date: _____
☐ Finance Reviewed: _____ ☐ Resolution / Ordinance # _____
☐ Publication Dates: _____

Prepared By: Gary Wardle, Director of Parks and Recreation

Date Prepared: July 7, 2014

PURPOSE

Consideration of a resolution authorizing the purchase of seven and 00/100 (7.00) shares of Fulton Ditch stock and authorizing the Mayor to execute the Purchase and Sale Agreement for the acquisition.

BACKGROUND

The City of Brighton has been presented with an opportunity to purchase seven and 00/100 Shares of Fulton Ditch Stock from C&J Sutton LLC. In an effort to capitalize on such an opportunity, we entered into a "Contract for Purchase of Water Rights" with C&J Sutton LLC on June 17, 2014. The water stock has been reviewed by City staff and meets the consumptive use value deemed acceptable for our non-potable water irrigation system.

The Fulton Ditch shares can be used to irrigate farmland and open space/landscaping in Brighton. These shares can be transferred to be used to irrigate the Ken Mitchell Park and other City open space property. The future uses will be determined as the final need for non-potable irrigation is determined. The irrigation on the Ken Mitchell Park is a few years away but the water is available today and could be lost or cost considerably more if not acquired at this time.

The current owners do not have consumptive use documentation to convert the water to potable water use. The historic use will provide the yield for non-potable irrigation.

FINANCIAL IMPACT

Staff has negotiated the purchase price for the seven and 00/100 (7.00) shares of Fulton Ditch stock for a total of \$105,000.00 and prepared a Purchase and Sale Agreement for said purchase. The purchase may be funded from the Recreation Capital Open Space Fund in the full amount of \$105,000.00.

OPTIONS FOR COUNCIL CONSIDERATION

- 1) Approve the Resolution authorizing the purchase of 7.0 Shares of Fulton ditch stock in an amount not to exceed \$105,000.
- 2) Not approve the Resolution

STAFF RECOMMENDATION

Staff has determined that the purchase of seven and 00/100 (7.00) shares of Fulton Ditch is essential to meet future needs for non-potable irrigation of farm land and open space properties and the purchase price is reasonable. Staff recommends that the purchase of the Fulton Ditch shares is in the best interest of the City.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO AUTHORIZING THE PURCHASE OF SEVEN AND 00/100 (7.00) FULTON DITCH SHARES FROM C&J SUTTON LLC, (SELLERS) FOR THE TOTAL NOT TO EXCEED SUM OF ONE HUNDRED FIVE THOUSAND DOLLARS (\$105,000.00).

Resolution No. _____

WHEREAS, the City of Brighton, Colorado is interested in securing water resources that can be used for the City's Non-Potable irrigation of existing open space in the community; and

WHEREAS, C&J Sutton LLC has presented Seven and 00/100 (7.0) shares of Fulton Ditch to the City for purchase; and

WHEREAS, the Shares have been reviewed by City staff for consistency with the City's long-range Water Resources Plan; and

WHEREAS, the City has requested, and C&J Sutton LLC has provided information about the historic use of the subject Shares; and

WHEREAS, the representatives of C&J Sutton LLC have represented to the City that it owns the Fulton Shares, that the Shares are free and clear of any liens or encumbrances, and that they have the authority to enter into the Purchase and Sale Agreement with the City for the sale of said Shares; and

WHEREAS, the Fulton Ditch Shares that are being offered to the City will be usable for non-potable irrigation and \$105,000 is a fair and reasonable price, and the City staff has recommended that it serves the best interests of the City to purchase the Shares for that price.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO AS FOLLOWS:

1. The purchase by the City of Seven and 00/100 (7.00) shares of Fulton Ditch from C&J Sutton LLC, for a total purchase price of \$105,000.00, is hereby approved.
2. That the funds for said purchase have been appropriated in 2014 within the City Open Space Fund.

ADOPTED this 15th day of July, 2014.

CITY OF BRIGHTON, COLORADO

By: _____
Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FROM:

Margaret R. Brubaker, City Attorney

OFFER TO PURCHASE WATER SHARES

THIS AGREEMENT is made this 17TH day of June, 2014, by and between C & J Sutton LLC, ("SELLERS"), whose address is 931 Bunker View Drive, Apollo Beach, Florida 33572 and the CITY OF BRIGHTON, a Colorado home rule municipal corporation of the County of Adams, State of Colorado; ("the BUYER").

1. Description of Water Shares. SELLERS are the sole owner of the water rights represented by Seven and 00/100 (7.00) shares of capital stock in The Fulton Irrigation Ditch ("FULTON") certificate number(s) # 3126 ("the SHARES").
2. Purchase Price. Subject to the terms of this AGREEMENT, SELLERS shall sell to BUYER and BUYER shall buy Seven and 00/100 SHARES. SELLERS warrants that SELLERS possesses good and marketable title to the WATER SHARES, as provided in Paragraphs Four and Five of this AGREEMENT, and agrees to convey to BUYER that good and marketable title to the WATER SHARES as provided in Paragraphs Five and Six of this AGREEMENT, and agrees to convey to BUYER that good and marketable title to the WATER SHARES for a purchase price of One Hundred Five Thousand and 00/100 Dollars (\$105,000.00).
3. Closing Date. The City Council will consider approval of a formal contract within 30 days after acceptance of this offer to purchase. The closing of this Agreement will occur within ten business days following approval by City Council of the City of Brighton. The closing will take place at the offices of the City of Brighton, or at such other place and time as may be mutually agreed upon by the parties.
4. Closing.
 - A. On the date of closing, SELLERS shall:
 - (1) Deliver to BUYER Stock Certificate #3126, properly endorsed by SELLERS to BUYER, together with an assignment thereof, giving BUYER the authority to transfer the ownership of the WATER SHARES evidenced by the stock certificate from SELLERS to the BUYER on the records of FULTON at no cost and expense to SELLERS;
 - (2) Deliver a general warranty deed conveying to BUYER the WATER SHARES. The assignment and deed shall be given free and clear from all liens, mortgages, encumbrances, ditch assessments, or adverse claims, except any ditch assessments now due and owing, and subject to the Articles of Incorporation, Bylaws, and Rules and Regulations of the Fulton Irrigation Ditch.
 - (3) Deliver to BUYER the documents specified in Paragraph 3 above.
5. Title. Title to the WATER SHARES shall be merchantable in SELLERS. SELLERS warrants and represents that it is, and on the closing date will be, the lawful owner of

the WATER SHARES and has full authority to sell and deliver the same to BUYER in accordance with this AGREEMENT, free and clear of all liens, mortgages, assessments, claims and encumbrances of any type. Any encumbrance existing at the time of closing may be paid at the closing from the proceeds of this transaction or from any other source. SELLERS represents that it has full right, power and authority to execute this AGREEMENT and to endorse over the stock certificates to BUYER pursuant to the statutory requirements of the State of Colorado. SELLERS further warrants and represents that there are no present pending actions or claims which might give rise to any court proceedings or contingent claims affecting ownership of the water.

6. Remedies. There shall be the following remedies:

A. If SELLERS is in default, (1) BUYER may elect to treat this AGREEMENT as terminated and BUYER may recover such damages as may be proper, or (2) BUYER may treat this AGREEMENT as being in full force and effect and BUYER shall have the right to an action for specific performance or damages, or both.

B. If BUYER is in default, (1) SELLERS may elect to treat this AGREEMENT as terminated and SELLERS may recover such damages as may be proper, or (2) SELLERS may treat this AGREEMENT as being in full force and effect and SELLERS shall have the right to an action for specific performance or damages, or both.

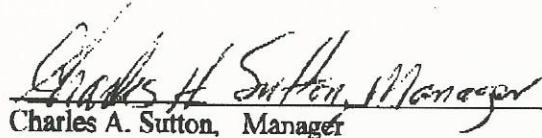
7. Indemnification. SELLERS indemnifies BUYER and holds BUYER harmless from any claim, demand, cause of action, suit, loss, damage, and expense of any nature whatsoever, which may arise directly or indirectly from the inaccuracy, invalidity, misrepresentation, or breach of any representation, warranty, or covenant made by SELLERS in or pursuant to this contract. This indemnification includes the obligation of SELLERS to deliver to BUYER unencumbered title to the WATER SHARES, in the event BUYER'S title to the WATER SHARES is defeated. If any dispute arises between the parties over any part of this agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in connection therewith from the other party.

BUYER:

CITY OF BRIGHTON

By: _____
Manuel Esquibel, City Manager

SELLERS:


Charles A. Sutton, Manager